

**UTAH STATE TAX COMMISSION
SUMMARY OF RULES**

Proposed Rules

The proposed rule amendment can be found on the Utah State Tax Commission website <http://tax.utah.gov/commission/rules>. The 30 day Public comment on the following rule ended on **October 17, 2011**.

Rule Number: R861-1A-24
Rule Title: Formal Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-502.5, 63G-4-206, and 63G-4-208.
Summary: The proposed amendment provides that a hearing officer may preside over formal proceedings before the Tax Commission if the proceeding is related to: (1) Title 41, Chapter 1a, Motor Vehicle Act, (2) Title 41, Chapter 3a, Motor Vehicle Business Regulation Act, except for Section 41-1a-301, (3) Title 59, Chapter 2, Property Tax Act; (4) Title 59, Chapter 3, Tax Equivalent Property Act, (5) Title 59, Chapter 4, Privilege Tax Act, or (6) Title 59, Chapter 13, Part 5, Interstate Agreement. In addition, the proposed amendment makes technical changes.

Proposed Rules

The proposed rule amendment can be found on the Utah State Tax Commission website <http://tax.utah.gov/commission/rules>. The Public comment on the following rule will end on **December 1, 2011**.

Rule Number: Rule R884-24P-53.
Rule Title: 2012 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Amendment.
Summary: Section 59-2-515 authorizes the State Tax Commission to promulgate rules regarding the Property Tax Act, Part 5, Farmland Assessment Act. Section 59-2-514 authorizes the State Tax Commission to receive valuation recommendations from the State Farmland Advisory Committee for implementation as outlined in R884-24P-53.

Proposed Rules:

The proposed rule amendments can be found on the Utah State Tax Commission website <http://tax.utah.gov/commission/rules>. The Public comment on the following will end on **December 15, 2011**.

Rule Number: R865-4D-24
Rule Title: Special Fuel Tax License Pursuant to Utah Code Ann. Section 59-13-302
Summary: The proposed amendment sets forth the parameters for determining that a special fuels tax licensee has ceased to do business or has changed the business address. These procedures mirror the procedures currently in rule for sales and withholding tax licensees.

Rule Number: R865-6F-8
Rule Title: Allocations and Apportionment of Net Income (Uniform Division of Income for Tax Purpose Act) Pursuant to Utah Code Ann. Section 59-7-321

Summary: The proposed changes to this rule were made necessary by legislative changes in Senate Bill 136 of the 2008 Legislative Session. In the bill, changes were made to Section 59-7-319 effective for tax years beginning in 2009. These changes repealed the “cost of performance” method formerly used to source sales of other than tangible property, and essentially replaced it with a “market sourcing” approach. This statute pertains to the sales factor of the three-factor formula, used to apportion income of a multistate corporate taxpayer. The new statute attributes a sale of services to this state if the purchaser of the service receives a greater benefit of the service in this state than in any other state. This legislative change is a substantive change in methodology for sourcing income from services as well as income from intangible property (addressed below). Based on the legislative change, additional guidance is needed to clarify basic policies as well as to provide examples of the application of those policies in a variety of industries. Further, the rule also references certain special industry rules and statutes where Utah had previously adopted a “market approach” for sourcing income in connection with the sales factor. The rule also contains changes dealing with the sourcing of income from intangible property, based on legislative changes in the bill mentioned above. The prior statute sourced income from intangible property based on the cost of performance method, similar to the prior law dealing with the sourcing of services. The new statute sources income from intangible property to the state in which the intangible property is used. Provisions of the new rule dealing with income from intangible property merely incorporate the statutory changes into several paragraphs in the rule. Note that the statute dealing with the sourcing of income from intangible property not only attributes income to Utah’s sales numerator if the intangible property is exclusively used in this state but also to the extent the intangible property is used in this state.

Rule Number: **R865-6F-28**
Rule Title: **Enterprise Zone Corporate Franchise Tax Credits Pursuant to Utah Code Ann. Sections 63M-1-401 through 63M-1-416.**
Summary: The proposed amendment deletes language relating to employer reports to the Department of Workforce Services since the statutory requirements for those reports has been repealed in 2011 HB 17. In addition, because that legislation also provides that a business entity may not claim enterprise zone credits if the business entity is primarily engaged in retail trade, the proposed amendment states that a business entity is primarily engaged in retail trade if the retail trade operations constitute more than 50% of the entity's total operations.

Rule Number: **R865-13G-17**
Rule Title: **Motor Fuel Tax License Pursuant to Utah Code Ann. Section 59-03-203**
Summary: The proposed amendment sets forth the parameters for determining that a motor fuels tax licensee has ceased to do business or has changed the business address. These procedures mirror the procedures currently in rule for sales and withholding tax licensees.

Rule Number: **R865-9I-2**
Rule Title: **Determination of Utah Resident Individual Status Pursuant to Utah Code Ann. Section 59-10-103; 59-10-136**
Summary: The proposed amendment deletes language that defines domicile since 2011 SB 21 provides guidance on domicile that supersedes the rule language.

Rule Number: **R865-9I-18**
Rule Title: **Taxpayer Records, Statements, and Special Returns Pursuant to Utah Code Ann. Section 59-1-1406**
Summary: The proposed amendment updates a statutory reference to match numbering changes in the statutes, and makes technical changes.

Rule Number: **R865-9I-37**
Rule Title: **Enterprise Zone Individual Income Tax Credits Pursuant to Utah Code Ann. Section 63M-1-401 Through 63M-1-414.**
Summary: The proposed amendment deletes language relating to employer reports to the Department of Workforce Services since the statutory requirements for those reports has been repealed in 2011 HB 17. In addition, because that legislation also provides that a business entity may not claim enterprise zone credits if the business entity is primarily engaged in retail trade, the proposed amendment states that a business entity is primarily engaged in retail trade if the retail trade operations constitute more than 50% of the entity's total operations.

New Rules

If the proposed rule amendments are approved in the Commission Meeting Thursday, December 8, 2011, the proposed rule amendments will be submitted to the Division of Administrative Rules (DAR) for publication in Utah Register. The proposed rule amendments will then be published in the Utah Bulletin January 1, 2012 and the Public comment will end on January 31, 2012.

Rule Number: R865-3C-1
Rule Title: Allocation of Net Income Pursuant to Utah Code Ann. Section 59-7-204.
Summary: The proposed amendment updates this rule to match statutory changes regarding when an out-of-state corporation with Utah income shall attribute receipts arising from royalties and intangible property to the state.

Rule Number: R865-19S-32
Rule Title: Leases and Rentals Pursuant to Utah Code Ann. Section 59-12-103.
Summary: The proposed amendment clarifies that fuel charges in a transaction for the lease or rental of a motor vehicle are not subject to sales tax if the fuel charges are optional and separately stated.

Rule Number: R877-23V-20
Rule Title: Reasonable Cause to Deny, Suspend, or Revoke a License Issued Under Title 41, Chapter 3 Pursuant to Utah Code Ann. Section 41-3-209.
Summary: The proposed rule indicates that reasonable cause to deny, suspend, or revoke a license issued under Title 41, Chapter 3 does not exist if an applicant: (1) indicates on the application form any violations of state or federal law listed under Subsection 41-3-209(2); (2) has completed any court-ordered probation or parole, or met the conditions of a plea in abeyance; and (3) has paid any required restitution or fines.

Rule Number: R877-23V-21
Rule Title: Automated License Plate Recognition System Pursuant to Utah Code Ann. Section 41-3-105
Summary: The proposed rule is drafted at the direction of the Administrative Rules Review Committee. The purpose of the rule is to provide the following criteria for the automated license plate recognition (ALPR) system used by the Motor Vehicle Enforcement Division: length of time data is stored in the system, who has access to the information in the system, what the system information may be used for, and whether the system information is protected.

Rule Number: R884-24P-62
Rule Title: Valuation of State Assessed Utility and Transportation Properties Pursuant to Utah Code Ann. Section 59-2-201
Summary: The proposed amendment incorporates public comments into the rule, defining the term “non-mobile flight equipment,” modifying the term “aircraft valuation manual” to “aircraft pricing guide” to match industry terminology, clarifying the meaning of an aircraft pricing guide, and indicating that value estimates from an aircraft pricing guide shall when possible be included in an appraisal report. None of these amendments substantively impact the administration of this rule.